

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA,

Plaintiff,

v.

TYSON FOODS, INC., et al.,

Defendants.

Case No. 05-CV-329-TCK-SAJ

CARGILL, INC.'S RESPONSE TO
STATE OF OKLAHOMA'S JULY 10, 2006 SET OF
REQUESTS FOR PRODUCTION TO CARGILL, INC..

TO:

M. David Riggs

Joseph P. Lennart

Richard T. Garren

Douglas A. Wilson

Sharon K. Weaver

Riggs, Abney, Neal, Turpen, Orbison & Lewis

502 West Sixth Street

Tulsa, OK 74119

James Randall Miller

David P. Page

Louis Werner Bullock

Miller Keifer & Bullock

222 S. Kenosha

Tulsa, OK 74120-2421

Attorneys for the State of Oklahoma

GENERAL OBJECTIONS

A. Definitions and Terms: Cargill, Inc. objects to certain of the words and phrases used by Plaintiff in its document requests as overbroad and unduly burdensome. Such objection includes, but is not limited to, Plaintiff's definition of "Cargill, Inc.," "You" and "Your" to include "insurance carriers," which are independent entities not a party to this action. Cargill, Inc. also objects to Plaintiff's definition of "documents and materials" to the extent that Plaintiff's definition is inconsistent with the definition of "documents" set forth in Rule 34(a) of the Federal Rules of Civil Procedure.

B. Privileges: Cargill, Inc. objects to Plaintiff's document requests as overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it seeks to invade information or documents protected by the attorney-client, work product, self-evaluative or joint defense privileges, or any other applicable discovery rule or privilege. Cargill, Inc. specifically objects to the production of documents or information in the possession of or obtained from non-testifying consultants or experts who have been specifically

all reasonably responsive, non-privileged documents that it has been able to locate as of the date of service of these responses.

* * *

Request for Production No. 107: Please produce all documents and materials reflecting, referring to or relating to your net worth.

Response: Cargill, Inc. objects to this request to the extent that it seeks confidential and proprietary trade secret or business documents without entry of an appropriate confidentiality and protective order. Cargill, Inc. further objects to this request as overbroad, burdensome and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it: seeks documents prior to 2002; seeks information protected by the attorney client or work product privileges; and seeks all documents “reflecting, referring to or relating to” the subject matter of this request. Subject to and without waiving these objections, Cargill, Inc. will produce upon entry of a mutually agreeable confidentiality and protective order documents summarizing Cargill, Inc.’s net worth during the applicable time period. Cargill, Inc. will supplement this response to include other documents “reflecting, referring to or relating to” its net worth if Plaintiff will narrow this request by providing further specificity as to the particular information about which it inquires and the type of documents sought.

* * *

Request for Production No. 108: Please produce copies of any charts, diagrams or schematics reflecting your present and / or past corporate structure and relationship to any corporate affiliates.

Response: Cargill, Inc. objects to this request to the extent that it seeks confidential and proprietary trade secret or business documents without entry of an appropriate confidentiality and protective order. Cargill, Inc. further objects to this request as overbroad, burdensome and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it: seeks documents prior to 2002; seeks information protected by the attorney client or work product privileges; and seeks all documents “reflecting” the subject matter of this request. Subject to and without waiving these objections, Cargill, Inc. will produce upon entry of a mutually agreeable confidentiality and protective order the organizational charts for Cargill, Inc., LLC during the applicable time period. Cargill, Inc. will supplement this response to include other documents “reflecting, referring to or relating to” its corporate structure if Plaintiff will narrow this request by providing further specificity as to the particular information about which it inquires and the type of documents sought.

Request for Production No. 109: Please produce copies of any charts, diagrams or schematics reflecting the present and / or past management or organizational structures for those portions of your business relating, directly or indirectly, to poultry growing, as well as any charts, diagrams or schematics reflecting the personnel / employees holding positions within those structures.

Response: Cargill, Inc. objects to this request to the extent that it seeks confidential and proprietary trade secret or business documents without entry of an appropriate confidentiality

Request for Production No. 125: Please produce all documents and materials reflecting, referring to or relating to the destruction of any documents and materials that would have been responsive, non-privileged to any of the above requests for production but due to their destruction are no longer in existence.

Response: Cargill, Inc. objects to this request as vague, ambiguous and unintelligible. Cargill, Inc. further objects to this request as overbroad, burdensome and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it seeks all documents "reflecting, referring to or relating to" the subject matter of this request. Subject to and without waiving these objections, Cargill, Inc. states that it will produce its document retention policies as indicated in Cargill, Inc.'s response to Request No. 2 of Plaintiff's First Request for Production of Documents. As of the date of service of these responses, Cargill, Inc. has not identified any other documents responsive, non-privileged to this request.

Respectfully submitted,

RHODES, HIERONYMUS, JONES,
TUCKER & GABLE, PLLC

BY: s/ Theresa Noble Hill

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And

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ATTORNEYS FOR CARGILL, INC. AND CARGILL TURKEY
PRODUCTION LLC

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 05-CV-329-TCK-SAJ
)	
TYSON FOODS, INC., et al.,)	
)	
Defendants.)	

CARGILL TURKEY PRODUCTION, LLC'S RESPONSE TO
STATE OF OKLAHOMA'S JULY 10, 2006 SET OF
REQUESTS FOR PRODUCTION TO CARGILL TURKEY PRODUCTION, LLC.

TO:

M. David Riggs	James Randall Miller
Joseph P. Lennart	David P. Page
Richard T. Garren	Louis Werner Bullock
Douglas A. Wilson	Miller Keifer & Bullock
Sharon K. Weaver	222 S. Kenosha
Riggs, Abney, Neal, Turpen, Orbison & Lewis	Tulsa, OK 74120-2421
502 West Sixth Street	Attorneys for the State of Oklahoma
Tulsa, OK 74119	

GENERAL OBJECTIONS

A. Definitions and Terms: Cargill Turkey Production, LLC ("Cargill Turkey") objects to certain of the words and phrases used by Plaintiff in its document requests as overbroad and unduly burdensome. Such objection includes, but is not limited to, Plaintiff's definition of "Cargill Turkey Production, LLC," "You" and "Your" to include "insurance carriers," which are independent entities not a party to this action. Cargill Turkey also objects to Plaintiff's definition of "documents and materials" to the extent that Plaintiff's definition is inconsistent with the definition of "documents" set forth in Rule 34(a) of the Federal Rules of Civil Procedure.

B. Privileges: Cargill Turkey objects to Plaintiff's document requests as overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it seeks to invade information or documents protected by the attorney-client, work product, self-evaluative or joint defense privileges, or any other applicable discovery rule or privilege. Cargill Turkey specifically objects to the production of documents or information in the possession of or obtained from non-testifying consultants or experts who have



Request for Production No. 105: Please produce all documents and materials reflecting, referring to or relating to the nature or character of the legal relationship between you and your contract growers.

Response: Cargill Turkey objects to this request to the extent that it seeks confidential and proprietary trade secret or business documents without entry of an appropriate confidentiality and protective order. Cargill Turkey further objects to this request as overbroad, burdensome and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it: seeks documents prior to 2002; seeks documents related to geographic areas outside the Illinois River Watershed; seeks information protected by the attorney client, work product, self-evaluative, or joint defense privileges; and seeks all documents "reflecting, referring to or relating to" the subject matter of this request. Subject to and without waiving these objections, Cargill Turkey will produce upon entry of a mutually agreeable confidentiality and protective order all reasonably responsive, non-privileged documents that it has been able to locate as of the date of service of these responses.

Request for Production No. 106: Please produce all documents and materials reflecting, referring to or relating to any legal disputes or lawsuits regarding the nature or character of the legal relationship between you and your contract growers.

Response: Cargill Turkey objects to this request to the extent that it seeks confidential and proprietary trade secret or business documents without entry of an appropriate confidentiality and protective order. Cargill Turkey further objects to this request as overbroad, burdensome and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it: seeks documents prior to 2002; seeks documents related to geographic areas outside the Illinois River Watershed; seeks information protected by the attorney client, work product, self-evaluative, or joint defense privileges; seeks documents in the public domain which are equally available to Plaintiff as to Cargill Turkey; and seeks all documents "reflecting, referring to or relating to" the subject matter of this request. Subject to and without waiving these objections, Cargill Turkey will produce upon entry of a mutually agreeable confidentiality and protective order all reasonably responsive, non-privileged documents that it has been able to locate as of the date of service of these responses.

* * *

Request for Production No. 107: Please produce all documents and materials reflecting, referring to or relating to your net worth.

Response: Cargill Turkey objects to this request to the extent that it seeks confidential and proprietary trade secret or business documents without entry of an appropriate confidentiality and protective order. Cargill Turkey further objects to this request as overbroad, burdensome and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it: seeks documents prior to 2002; seeks information protected by the attorney client or work product privileges; and seeks all documents "reflecting, referring to or relating to" the subject matter of this request. Subject to and without waiving these objections, Cargill Turkey will produce upon entry of a mutually agreeable confidentiality and protective order documents summarizing Cargill Turkey's net worth during the applicable time period. Cargill Turkey will

supplement this response to include other documents “reflecting, referring to or relating to” its net worth if Plaintiff will narrow this request by providing further specificity as to the particular information about which it inquires and the type of documents sought.

* * *

Request for Production No. 108: Please produce copies of any charts, diagrams or schematics reflecting your present and / or past corporate structure and relationship to any corporate affiliates.

Response: Cargill Turkey objects to this request to the extent that it seeks confidential and proprietary trade secret or business documents without entry of an appropriate confidentiality and protective order. Cargill Turkey further objects to this request as overbroad, burdensome and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it: seeks documents prior to 2002; seeks information protected by the attorney client or work product privileges; and seeks all documents “reflecting” the subject matter of this request. Subject to and without waiving these objections, Cargill Turkey will produce upon entry of a mutually agreeable confidentiality and protective order the organizational charts for Cargill Turkey, LLC during the applicable time period. Cargill Turkey will supplement this response to include other documents “reflecting, referring to or relating to” its corporate structure if Plaintiff will narrow this request by providing further specificity as to the particular information about which it inquires and the type of documents sought.

Request for Production No. 109: Please produce copies of any charts, diagrams or schematics reflecting the present and / or past management or organizational structures for those portions of your business relating, directly or indirectly, to poultry growing, as well as any charts, diagrams or schematics reflecting the personnel / employees holding positions within those structures.

Response: Cargill Turkey objects to this request to the extent that it seeks confidential and proprietary trade secret or business documents without entry of an appropriate confidentiality and protective order. Cargill Turkey further objects to this request as overbroad, burdensome and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it: seeks documents prior to 2002; seeks information protected by the attorney client or work product privileges; and seeks all documents “reflecting” the subject matter of this request. Subject to and without waiving these objections, Cargill Turkey will produce upon entry of a mutually agreeable confidentiality and protective order the organizational charts for Cargill Turkey, LLC during the applicable time period. Cargill Turkey will supplement this response to include other documents “reflecting, referring to or relating to” its corporate structure if Plaintiff will narrow this request by providing further specificity as to the particular information about which it inquires and the type of documents sought.

Request for Production No. 110: Please produce copies of any charts, diagrams or schematics reflecting the present and / or past management or organizational structures for those portions of your business relating, directly or indirectly, to environmental issues, as well as any charts, diagrams or schematics reflecting the personnel / employees holding positions within those structures.

Respectfully submitted,

RHODES, HIERONYMUS, JONES,
TUCKER & GABLE, PLLC

BY: s/ Theresa Noble Hill

JOHN H. TUCKER, OBA #9110
COLIN H. TUCKER, OBA #16325
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Facsimile: 918/592-3390

And

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DARA D. MANN
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2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, Minnesota 55402
Telephone: 612/766-7000
Facsimile: 612/766-1600

ATTORNEYS FOR CARGILL, INC. AND CARGILL TURKEY
PRODUCTION LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, *et al.*

Plaintiffs,

v.

TYSON FOODS, INC., *et al.*

Defendants.

05-CV-0329 GKF-SAJ

**DEFENDANT CARGILL INCORPORATED'S RESPONSES AND OBJECTIONS TO PLAINTIFFS'
SEPTEMBER 13, 2007 SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION TO ALL
DEFENDANTS**

Pursuant to Fed. R. Civ. P. 26, 33, and 34, Defendant Cargill Incorporated hereby provides the following responses and objections to Plaintiffs' September 13, 2007 Set of Interrogatories and Requests for Production to all Defendants.

General Objections

Cargill Incorporated objects generally to each of Plaintiffs' Interrogatories and Requests for Production as overly broad and misleading to the extent that said Interrogatories and Requests (a) purport to define "Waters of the State" as encompassing waters outside the Illinois River Watershed; and (b) purport to define "poultry waste" as "any . . . waste associated with the confinement of poultry from a poultry growing or feeding operation." Cargill Incorporated further objects to Plaintiffs' use of the term "poultry waste" as argumentative, inasmuch as poultry material used as fertilizer is not "waste" but is in fact a useful and beneficial material.

Cargill Incorporated objects generally to each of Plaintiffs' Interrogatories and Requests for Production to the extent they request information prior to 2002 on issues other than corporate knowledge regarding the alleged detrimental effects of land application of "poultry waste," in conflict with the Court's repeated rulings concerning the permitted five year temporal scope of

terminated, if such interests terminated the reasons they terminated and what became of the interests, and the number of birds raised / fed annually in the IRW by any such entities.

Response:

Cargill Incorporated refers Plaintiffs to its objections and answer to Interrogatory No. 10 herein. Cargill Incorporated is still searching for documents regarding its prior involvement with Ag Forte LLC, and it will produce any responsive documents it identifies as soon as responsibly possible. To the extent that Cargill Incorporated maintained any documents responsive to this request insofar as the management or organizational structure of Cargill Incorporated's former live turkey production operations are concerned, these documents have been produced previously.

Request for Production No. 11: To the extent you have not already produced them, please produce copies of documents reflecting your financial statements for fiscal years 2002 to the present, as well as any other documents reflecting your net worth for fiscal years 2002 to the present. For purposes of this request for production, the term "financial statement" includes, but is not necessarily limited to, balance sheets, statements of income, statements of equity position, statements of cash flow, and all footnotes.

Response:

Cargill Incorporated objects to this request as duplicative of Document Request No. 107 in Plaintiffs' July 10, 2006 Set of Document Requests. Cargill Incorporated incorporates herein by reference its objections and responses to Document Request No. 107 in Plaintiffs' First Set of Document Requests as if fully set forth herein.

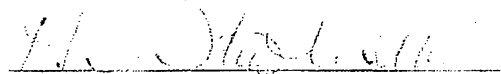
Request for Production No. 12: To the extent you have not already produced them, please produce copies of all documents referring or relating to poultry waste generated at your own poultry growing / feeding operations and/or poultry growing / feeding operations under contract with you in the Illinois River Watershed that has been transported out of the Illinois River Watershed (including but not limited to documents referring or relating to the identity of each operation that generated the

CORPORATE VERIFICATION

H. Steven Willardsen, President, Cargill Turkey Production, LLC, a wholly owned subsidiary of Cargill Meat Solutions Corporation, which is a wholly owned subsidiary of Cargill Incorporated states that he is an authorized signatory of Defendant Cargill Incorporated in the above-titled action; that he signs the foregoing Answers to Plaintiffs' September 13, 2007 Set of Interrogatories for and on behalf of Defendant Cargill Incorporated and is duly authorized to do so by Cargill Incorporated; that certain of the matters stated in the foregoing Answers to Plaintiffs' September 13, 2007 Set of Interrogatories are not within his personal knowledge; that he is informed that there is no Officer or Managing Agent of Defendant Cargill Incorporated who has personal knowledge of all such matters; that the facts stated in said Answers have been assembled by authorized employees of Cargill Turkey Production, LLC and counsel of Defendants Cargill Turkey Production, LLC and Cargill Incorporated; and that he is informed that the facts stated in the foregoing Answers are true and correct.

Dated: November 13, 2007

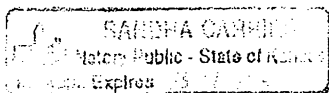
• Cargill Incorporated



H. Steven Willardsen
President, Cargill Turkey Production, LLC
Authorized signatory for Cargill Incorporated

STATE OF KANSAS
COUNTY OF SEDGWICK

Subscribed and sworn to before me
this 13 day of November, 2007.



UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, *et al.*

Plaintiffs,

v.

TYSON FOODS, INC., *et al.*

Defendants.

05-CV-0329 GKF-SAJ

**DEFENDANT CARGILL TURKEY PRODUCTION, LLC'S RESPONSES AND OBJECTIONS TO
PLAINTIFFS' SEPTEMBER 13, 2007 SET OF INTERROGATORIES AND REQUESTS FOR
PRODUCTION TO ALL DEFENDANTS**

Pursuant to Fed. R. Civ. P. 26, 33, and 34, Defendant Cargill Turkey Production, LLC ("CTP") hereby provides the following responses and objections to Plaintiffs' September 13, 2007 Set of Interrogatories and Requests for Production to all Defendants.

General Objections

CTP objects generally to each of Plaintiffs' Interrogatories and Requests for Production as overly broad and misleading to the extent that said Interrogatories and Requests (a) purport to define "Waters of the State" as encompassing waters outside the Illinois River Watershed; and (b) purport to define "poultry waste" as "any . . . waste associated with the confinement of poultry from a poultry growing or feeding operation." CTP further objects to Plaintiffs' use of the term "poultry waste" as argumentative, inasmuch as poultry material used as fertilizer is not "waste" but is in fact a useful and beneficial material.

CTP objects generally to each of Plaintiffs' Interrogatories and Requests for Production to the extent they request information prior to 2002 on issues other than corporate knowledge regarding the alleged detrimental effects of land application of "poultry waste," in conflict with the Court's repeated rulings concerning the permitted five year temporal scope of Plaintiffs' discovery. (See,



CTP objects to this request on the ground that it seeks information prior to 2002, in conflict with the Court's repeated rulings concerning the permitted temporal scope of Plaintiffs' discovery. (See, e.g., 10/24/07 Order at 7, 8: Dkt. No. 1336.) The request is therefore overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving these objections:

CTP refers Plaintiffs to its objections and answer to Interrogatory No. 10 herein. CTP has no documents responsive to this request insofar as ownership of other entities is concerned. CTP has produced previously the documents responsive to this request insofar as the management structure of CTP is concerned.

Request for Production No. 11: To the extent you have not already produced them, please produce copies of documents reflecting your financial statements for fiscal years 2002 to the present, as well as any other documents reflecting your net worth for fiscal years 2002 to the present. For purposes of this request for production, the term "financial statement" includes, but is not necessarily limited to, balance sheets, statements of income, statements of equity position, statements of cash flow, and all footnotes.

Response:

CTP objects to this request as duplicative of Document Request No. 107 in Plaintiffs' July 10, 2006 Set of Document Requests. CTP incorporates herein by reference its objections and responses to Document Request No. 107 in Plaintiffs' First Set of Document Requests as if fully set forth herein.


Request for Production No. 12: To the extent you have not already produced them, please produce copies of all documents referring or relating to poultry waste generated at your own poultry growing / feeding operations and/or poultry growing / feeding operations under contract with you in the Illinois River Watershed that has been transported out of the Illinois River Watershed (including but not limited to documents referring or relating to the identity of each operation that generated the

CORPORATE VERIFICATION

H. Steven Willardsen, President, Cargill Turkey Production, LLC, a wholly owned subsidiary of Cargill Meat Solutions Corporation, which is a wholly owned subsidiary of Cargill Incorporated states that he is an authorized signatory of Defendant Cargill Turkey Production, LLC in the above-titled action; that he signs the foregoing Responses and Objections to Plaintiffs' September 13, 2007 Set of Interrogatories to All Defendants for and on behalf of Defendant Cargill Turkey Production, LLC and is duly authorized to do so by Cargill Turkey Production, LLC; that certain of the matters stated in the foregoing Responses and Objections to Plaintiffs' September 13, 2007 Set of Interrogatories to All Defendants are not within his personal knowledge; that he is informed that there is no Officer or Managing Agent of Defendant Cargill Turkey Production, LLC who has personal knowledge of all such matters; that the facts stated in said Answers have been assembled by authorized employees of Cargill Turkey Production, LLC and counsel of Defendants Cargill Turkey Production, LLC and Cargill Incorporated; and that he is informed that the facts stated in the foregoing Answers are true and correct.

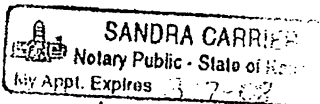
Dated: November 16, 2007

Cargill Turkey Production, LLC


 H. Steven Willardsen
 President, Cargill Turkey Production, LLC
 Authorized signatory for Cargill Turkey
 Production, LLC

STATE OF KANSAS
 COUNTY OF SEDGWICK

Subscribed and sworn to before me
 this 16th day of November, 2007.



Sandra Carrier



Elizabeth C. Ward
Licensed in NC, SC
DIRECT DIAL 843.216.9280
DIRECT FAX 843.216.9440
LWard@motleyrice.com

October 24, 2008

Via Email

Leslie Southerland, Esquire
Rhodes, Hieronymus, Jones, Tucker & Gable
100 W. 5th, Ste. 400
Tulsa, OK 74121

Re: State of Oklahoma, et al. v. Tyson et. al.
Civil Action Number: 05-CV-0329-GKF-SAJ

Dear Leslie:

I write in response to Cargill, Inc.'s responses to Request for Production No. 107, dated July 10, 2006 and No. 11, dated September 13, 2007.

Pursuant to your request, the State is narrowing its requests with respect to financial information as set forth below. For the purpose of these requests, unless otherwise indicated, the terms "year" or "year end" means the fiscal or calendar year depending on the reporting year selected by Cargill, Inc. The term "company" means Cargill, Inc. Please provide the following:

1. Audited financial statements with all notes for years ending in calendar years 2003 through 2008.
2. Unaudited internal financial statements for most recent two year ends and most recent interim date. If audited statements are not available as requested above, please provide unaudited, reviewed and/or complied financial statements for years ending in calendar years 2003 through 2008.
3. Working trial balance at most recent year end and most recent interim financial reporting period.
4. Tax returns for 2006 and 2007, including all supporting schedules, disclosures, and detailed appreciation schedules.
5. Copy of any appraisal valuation or estimation of value prepared for or in connection with your business operations commencing in 2006, including the following:

www.motleyrice.com

Motley Rice LLC
Attorneys at Law



MT. PLEASANT

28 BRIDGESIDE BLVD.
P.O. BOX 1792
MT. PLEASANT, SC 29465
843-216-9000
843-216-9450 FAX

PROVIDENCE

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P.O. BOX 6067
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HARTFORD

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HARTFORD, CT 06103
860-882-1681
860-882-1682 FAX

ENGAD-Bayonne, N. J.

**PLAINTIFF'S
EXHIBIT**

E

Leslie Southerland, Esquire
October 24, 2008
Page 2

- assessment of tangible assets such as real property or equipment;
- assessments of any stocks, securities, options, or other forms of securities issued by the company including but not limited to those documents utilized for financial
- reporting pursuant to Statement of Financial Accounting Statements ("SFAS") No. 123R and APB Opinion No. 25;
- collateral or business enterprise assessments issued to any financial institutions;
- assessments of cash flows employing discounting methods or other methods of valuing or estimating the fair value of long lived assets, business segments, trademarks or other intangibles including all documents prepared pursuant to the requirements of SFAS No. 159; and
- assessments of closely held shares for use in gifting, transferring, or assigning such shares in the company.

6. Copies of business plans, financial projections, forecasts, and pro forma financial statements issued to any lending institutions, investment/capital group, investment banker, broker, merger, candidate, acquisition candidate, outside auditor, or any other party contemplating and/or consummating a significant financial transaction with the company since 2006.

7. Copies of internally prepared budgets and forecasts utilized by management for planning, managing, or monitoring the company's operating results since 2006.

I understand that there are confidentiality concerns with respect to some or all of these documents. I have already obtained a signed confidentiality acknowledgment by any company or individual to whom we will provide this information. Please provide the documents requested above by Friday, October 31, 2008. Alternatively, please provide me with a time prior to Friday, October 31, 2008 that we can meet and confer regarding this request.

Sincerely,



Elizabeth C. Ward

ECW:jmh



Elizabeth C. Ward
 Licensed in NC, SC
 DIRECT DIAL 843.216.9280
 DIRECT FAX 843.216.9440
 LWard@motleyrice.com

October 24, 2008

Via Email

Leslie Southerland, Esquire
 Rhodes, Hieronymus, Jones, Tucker & Gable
 100 W. 5th, Ste. 400
 Tulsa, OK 74121

Re: State of Oklahoma, et al. v. Tyson et. al.
 Civil Action Number: 05-CV-0329-GKF-SAJ

Dear Leslie:

I write in response to Cargill Turkey Production, LLC's responses to Request for Production No. 107, dated July 10, 2006 and No. 11, dated September 13, 2007.

Pursuant to your request, the State is narrowing its requests with respect to financial information as set forth below. For the purpose of these requests, unless otherwise indicated, the terms "year" or "year end" means the fiscal or calendar year depending on the reporting year selected by Cargill Turkey Production, LLC. The term "company" means Cargill Turkey Production, LLC. Please provide the following:

- 1 Audited financial statements with all notes for years ending in calendar years 2003 through 2008.
2. Unaudited internal financial statements for most recent two year ends and most recent interim date. If audited statements are not available as requested above, please provide unaudited, reviewed and/or complied financial statements for years ending in calendar years 2003 through 2008.
3. Working trial balance at most recent year end and most recent interim financial reporting period.
4. Tax returns for 2006 and 2007, including all supporting schedules, disclosures, and detailed appreciation schedules.
5. Copy of any appraisal valuation or estimation of value prepared for or in connection with your business operations commencing in 2006, including the following:

www.motleyrice.com

Motley Rice LLC
 Attorneys at Law



MT. PLEASANT

28 BRIDGESIDE BLVD.
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 860-882-1682 FAX

Leslie Southerland, Esquire
October 24, 2008
Page 2


- assessment of tangible assets such as real property or equipment;
- assessments of any stocks, securities, options, or other forms of securities issued by the company including but not limited to those documents utilized for financial
- reporting pursuant to Statement of Financial Accounting Statements ("SFAS") No. 123R and APB Opinion No. 25;
- collateral or business enterprise assessments issued to any financial institutions;
- assessments of cash flows employing discounting methods or other methods of valuing or estimating the fair value of long lived assets, business segments, trademarks or other intangibles including all documents prepared pursuant to the requirements of SFAS No. 159; and
- assessments of closely held shares for use in gifting, transferring, or assigning such shares in the company.

6. Copies of business plans, financial projections, forecasts, and pro forma financial statements issued to any lending institutions, investment/capital group, investment banker, broker, merger, candidate, acquisition candidate, outside auditor, or any other party contemplating and/or consummating a significant financial transaction with the company since 2006.

7. Copies of internally prepared budgets and forecasts utilized by management for planning, managing, or monitoring the company's operating results since 2006.

I understand that there are confidentiality concerns with respect to some or all of these documents. I have already obtained a signed confidentiality acknowledgment by any company or individual to whom we will provide this information. Please provide the documents requested above by Friday, October 31, 2008. Alternatively, please provide me with a time prior to Friday, October 31, 2008 that we can meet and confer regarding this request.

Sincerely,



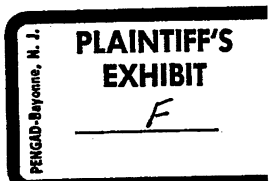
Elizabeth C. Ward

ECW:jmh
enclosures

David Payne

Report

See In Camera Production



Haubert, Jane M.

From: Xidis, Claire
Sent: Wednesday, December 10, 2008 4:12 PM
To: Walker, Todd P.
Cc: Ward, Liza
Subject: RE: CTP data
Attachments: 2002-05-03 Order.pdf

Hi Todd,

Thank you for the update.

We have discussed the information you provided for Cargill Inc. last week with our expert. The very brief summary of information produced by you last week is far less than a complete financial statement and is missing key elements necessary to determine Cargill Inc.'s financial condition. As I explained during our meet and confer a few weeks ago, we need financial information that set out income and that would enable us to get a complete understanding of Cargill Inc.'s financial condition. Unfortunately, this summary is quite sparse and does not provide key financial information.

I have attached the City of Tulsa order for your review. As you can see, it instructs the defendants to provide "financial statements." A financial statement includes a balance sheet, an income statement, and a statement of cash flow. These are the elements we need to understand the nature of Cargill Inc.'s financial condition, and the same is true for Cargill Turkey.

Can you please provide this complete information for Cargill Inc. and for Cargill Turkey as soon as possible?

Thank you,

Claire Xidis | Attorney at Law | Motley Rice LLC
 28 Bridgeside Blvd. | Mt. Pleasant, SC 29464 | cxidis@motleyrice.com
 o. 843.216.9251 | c. 843.834.4747 | f. 843.216.9450

From: Walker, Todd P. [<mailto:TWalker@faegre.com>]
Sent: Tuesday, December 09, 2008 7:50 PM
To: Xidis, Claire
Subject: CTP data

Claire - I have received and reviewed the 2008 CTP financial report. I am conferring with Cargill about the nature of a disclosure for CTP. My contact is traveling all week, but I am hoping to connect while he is on the road and run this to ground. I expect to be in touch again with you tomorrow or Thursday.

LAWYER BIOGRAPHIES PRACTICE EXPERIENCE CONTACT US	
	<p>Todd P Walker Partner Faegre & Benson LLP 3200 Wells Fargo Center 1700 Lincoln Street Denver, CO 80203-4532 303-607-3779 / FAX 303-607-3600 TWalker@faegre.com</p>
<p>Biography Download My Contact Info as V-Card www.faegre.com</p>	
<p>COLORADO MINNESOTA IOWA LONDON FRANKFURT SHANGHAI</p>	

2/17/2009

INGAD-Bayonne, N. J.
**PLAINTIFF'S
 EXHIBIT**
 6

Cargill Turkey

One Page Financial Summary – 12/23/08

See In Camera Production



**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

MAY 03 2002

Phil Lombardi, Clerk
U.S. DISTRICT COURT

THE CITY OF TULSA, and THE TULSA
METROPOLITAN UTILITY AUTHORITY,

PLAINTIFFS,

vs.

CASE No. 01-CV-900-B (X)

TYSON FOODS, INC., COBB-
VANTRESS, INC., PETERSON FARMS,
INC., SIMMONS FOODS, INC.,
CARGILL, INC., GEORGE'S, INC.,
and CITY OF DECATUR, ARKANSAS,

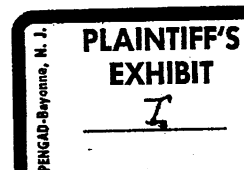
DEFENDANTS.

ORDER

This order addresses the Plaintiffs' Motion to Compel [Dkt. 76] which has been referred to the undersigned United States Magistrate Judge for decision. This order also resolves Defendant Cargill, Inc.'s Motion for Protective Order [Dkt. 85] which has also been referred to the undersigned United States Magistrate Judge for decision. A hearing was held on these motions on May 1, 2002.

Plaintiffs' motion concerns four discovery requests while Defendant Cargill, Inc.'s motion for protective order addresses one of those requests by Plaintiff. At the Rule 37 conference, the Defendants agreed to provide responsive documents for all growers within the watershed since 1996. Plaintiffs reserved the right to move to compel responsive documents for earlier years. However, in the current motion to compel, Plaintiffs confine their request for relief to documents responsive for growers

96



within the watershed since 1996. The Court will address each of Plaintiffs' discovery requests in turn.

Plaintiffs' Request for Production No. 3:

At the hearing, Plaintiffs expressed concern that various objections interposed by the Defendants in their responses left uncertainty as to whether the Defendants had fully responded to the request. The Defendants responded that they had provided all responsive documents for all growers within the watershed since 1996, with the exception of Defendant Peterson Farms, Inc., which stated that it had provided summary information concerning all growers within the watershed since 1996, believing this to be in compliance with the agreements at the Rule 37 conference. Defendant Peterson Farms, Inc., stated that it could provide responsive documents for all growers within the watershed since 1996 within one week of the hearing.

Based upon the representations at the hearing and to remove any uncertainty on the issue, the Court grants the Plaintiffs' Motion to Compel and orders each of the Defendants to serve a supplemental response to Plaintiffs' Request for Production No. 3 within seven (7) days of the date of this order, which clearly states that the Defendant has produced all responsive documents for all growers within the watershed since 1996. Defendant Peterson Farms, Inc., is hereby ordered to produce the responsive documents along with his supplemental discovery response.

Plaintiffs' Request for Production No. 4:

With the exception of specific issues concerning Defendant Simmons Foods, Inc. and Cargill, Inc., the Defendants advised the Court at the hearing that they had

provided all documents responsive to Request for Production No. 4 for all of the growers within the watershed since 1996. For the same reasons discussed with respect to Request for Production No. 3, the Court orders the Defendants to serve a supplemental discovery response upon Plaintiffs stating that they have provided all documents responsive to Plaintiffs' document request No. 4 for all growers within the watershed since 1996. This supplement shall also be filed within seven (7) days of the date of this order.

Defendant Simmons Foods, Inc. objects to providing responsive documents concerning the terms of payment to the contract growers or the total payment amounts. Simmons contends that this information exceeds the scope of discovery, constitutes sensitive confidential proprietary business information of Simmons, especially in this competitive market when its competitors are co-defendants in this lawsuit and that the independent contract growers who are not parties to this litigation have a reasonable expectation of privacy with regard to these financial matters. After hearing Simmons' argument and reviewing the authorities cited, the Court is unpersuaded. The Court concludes that the amount of money paid to the contract growers is clearly within the scope of discovery under Fed. R. Civ. P. 26. The growers who received these financial payments are alleged by Plaintiffs to be the agents of the Defendants and the Plaintiffs contend that the payments are one aspect of the control which the Defendants have over the growers. The Court finds that the amount of those payments is certainly relevant to Plaintiffs' allegations in the discovery context.

Defendant Simmons' arguments concerning the confidential proprietary business nature of the information are adequately addressed by the protective order already in place in the case. This protective order likewise protects whatever privacy interests the growers have in this information. Defendant Simmons' objection is therefore overruled and Plaintiffs' Motion to Compel is granted with regard to this information. Defendant Simmons Foods, Inc. shall produce the responsive documents to Plaintiffs within seven (7) days of the date of this order.

Defendant Cargill, Inc. represented at the hearing that the responsive information has been provided to Plaintiffs in the form of reports and contract files with the exception of reports which will be produced within two weeks of the date of the hearing and some additional reports which are yet to be located but which will be produced upon being located. If the documents are not produced in a timely fashion, this issue shall be resolved by expedited telephone conference with the undersigned. Defendant Cargill also advised the Court that it had redacted the identity of the grower from various site reports which had been produced to Plaintiff. Defendant Cargill contends that the names were redacted to avoid embarrassment to the growers based upon adverse comments contained within the reports. The Court finds that this is an insufficient reason to redact the names of the growers and hereby orders Defendant Cargill, Inc. to produce unredacted site reports to Plaintiffs within seven (7) days of the date of this order.

Defendant Cargill also advised that it had redacted the social security numbers and bank account numbers from various files produced to the Plaintiffs. Plaintiffs did

not specifically object to this redaction and the Court at this stage concludes that this redaction may be appropriate. The Court, therefore, does not order Cargill to provide unredacted documents with social security and bank account numbers.

Based upon the above discussion, Plaintiffs Motion to Compel responses to Request for Production No. 4 are granted as set forth above.

Request for Production No. 26:

Through this request, Plaintiffs seek access to detailed financial information concerning each of the Defendants. In support of the request, Plaintiffs assert that such information will be relevant to Plaintiffs' punitive damage claim and also relevant to the economic feasibility of remedies which might be imposed in this case to correct the alleged problems claimed by Plaintiffs in their complaint.

Defendants argue that the simple filing of a punitive damage claim should not permit Plaintiffs unfettered access to their financial information especially since the Defendants are competitors and all but Defendant Tyson Foods, Inc. are privately held entities who do not disclose their financial information. Defendants suggest delaying this discovery until the Court rules on dispositive motions or even until trial.

From the briefs and authorities cited therein, along with the argument of counsel at the hearing, the Court is persuaded that some discovery of the Defendants' financial condition should be permitted. It is not a workable solution to await rulings on summary judgment motions or determinations during trial as to whether punitive damage instructions will be given before permitting discovery of the Defendants' financial conditions. That being said, Plaintiffs have not articulated sound reasons for

permitting detailed discovery of the Defendants' private financial affairs. Based upon Plaintiffs' arguments, it would appear that financial statements reflecting the Defendants' net worth from 1996 forward would be sufficient for the Plaintiffs' needs.

The Court therefore grants Plaintiffs' Motion to Compel to the extent that the Defendants are hereby ordered to produce to Plaintiffs within seven (7) days of the date of this order, documents reflecting their net worth from 1996 forward. This order is without prejudice to Plaintiffs' re-urging the motion should additional financial information be necessary as the case progresses.


Interrogatory No. 2:

By this interrogatory, Plaintiffs seek the identity of the Defendants' accountants and financial consultants. Based upon the Court's decision regarding production of financial documents, the Court concludes that Plaintiffs are not entitled to discover the identity of the Defendants' accountants or financial consultants at this stage in the litigation.

Conclusion

Plaintiffs' Motion To Compel Production of Documents [Dkt. 76] is GRANTED IN PART and DENIED IN PART as set forth above. Defendant Cargill, Inc.'s Motion for Protective Order [Dkt. 85] is GRANTED IN PART and DENIED IN PART as set forth above.

SO ORDERED this 3rd day of May, 2002.


FRANK H. MCCARTHY
UNITED STATES MAGISTRATE JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA,)	
)	
)	
Plaintiff,)	
)	
vs.)	
)	No. 05-cv-329-GKF(PJC)
)	
TYSON FOODS, INC., et al.,)	
)	
Defendants.)	

AFFIDAVIT OF DAVID R. PAYNE

STATE OF OKLAHOMA §
 §
 COUNTY OF OKLAHOMA §

Before me, the undersigned authority authorized to administer oaths in the State of Oklahoma, personally appeared David R. Payne. After being duly sworn, David R. Payne stated under oath as follows:

1. My name is David R. Payne. I am over eighteen years of age and have never been convicted of a felony. I am otherwise competent to testify under oath and to execute this affidavit. The facts stated herein are based upon my personal knowledge and are all true and correct.

2. I am a firm managing director of the firm of D.R. Payne & Associates, Inc. ("DRPA") and Business Valuers & Appraisers L.L.C. ("BVA") in Oklahoma City, Oklahoma. DRPA and BVA provide both forensic and financial consulting services in addition to opinions of value regarding businesses and their assets.

3. I am a certified public accountant, accredited senior appraiser, a certified turnaround professional and a certified insolvency and restructuring



advisor. I also hold two additional valuation designations. I regularly examine businesses and their assets, liabilities and operations to evaluate financial attributes affecting value liquidity and solvency, for purposes of assessing a business' ability to pay its obligations, commitments and liabilities.

4. DRPA has been retained by the Plaintiff in this action with respect to evaluating and assessing the financial condition and net worth of certain named defendant entities ("Defendants") as it impacts their ability to pay a claim, judgment or award of damage ("Ability To Pay"). Ability to Pay considers various financially oriented elements ("Financial Attributes") which include the nature, composition and quality of the Defendants' assets, liabilities, earnings and cash flows. The starting point for assessing the Financial Attributes affecting financial condition involves an evaluation of data as reported by the Defendants' in their books, records and financial statements ("Book Values"). Ability To Pay also considers true economic or intrinsic value ("Economic Value"), normalized earnings, and discretionary cash flows ("Earning Capacity") under the control of the managements for the Defendants.
5. Seven (7) of the Defendants are controlling parent entities and/or stand alone defendants ("Tier 1 Companies or Defendants") while six (6) Defendants are subsidiary companies ("Tier 2 Companies or Defendants") operating under the control of the Tier 1 Companies. The Tier 1 Companies generally report their financial results and file tax returns on a consolidated, to the extent there are any, basis which includes the Tier 2 Companies. Tier 1 Companies are normally required to undergo annual financial audits in order to meet registration, lending, management and/or shareholder requirements ("Stakeholder Requirements").
6. Annual financial audits of Tier 1 companies employ generally accepted accounting principles ("GAAP") which require that informative footnote disclosures be included with financial statements ("GAAP Statements"). In contrast, Tier 2 Companies may not be required to: (i) undergo separate, stand alone financial audits; (ii) keep their records on a GAAP basis; or (iii) provide separate footnote disclosures with their financial statements. Nevertheless, Tier 2 Companies' financial results, to the extent there are any, are subjected to audit procedures and are consolidated into the Tier 1 Companies' financial statements. The consolidated audit reports incorporate but do not segregate and delineate the financial results of any specific Tier 2 Defendant from other non-defendant entities under the Tier 1 Companies' consolidated control. Therefore, the financial statement data for Tier 2 Companies are readily available in the ordinary course from files utilized to conduct the annual audits.

7. GAAP Statements require informative footnote disclosures ("Footnote Disclosures") and have significantly more market based data when compared to: (i) financial statements prepared on another comprehensive basis of accounting ("OCBOA Statements"); and (ii) partial presentations (i.e. balance sheet only) of GAAP Statements ("Partial Presentation Statements"). Additionally, companies filing reports with the Securities and Exchange Commission ("SEC Registrants") pursuant to Regulations S-X and S-K provide further narrative disclosures of the business and its prospective outlook in text formats ("Text Disclosures").
8. Only two of the Defendants, (Tyson Foods, Inc. and Cal-Maine Foods, Inc.) are SEC Registrants who provide GAAP Statements, Footnote Disclosures and Text Disclosures. Based upon my training and experience with privately held companies similar to the remaining five (5) Tier 1 Companies (Cargill, Inc., George's, Inc., Peterson Farms, Inc., Simmons Foods, Inc. and Willow Brook Foods, Inc.), GAAP Statements and Footnote Disclosures are generally prepared and are available in the ordinary course of business due to Stakeholder Requirements. However, Cargill, Inc., George's, Inc., Peterson Farms, Inc. and Simmons Foods, Inc. have not provided a complete set of GAAP Statements with Footnote Disclosures. According to audited financial statements, the Footnote Disclosures are considered integral and relevant data. Audited financial statements of the Defendants include written references such as the following:

"The accompanying notes are an integral part of these financial statements"

(Source: Willow Brook and/or Simmons
12/31/06 Audited Financial Statements)

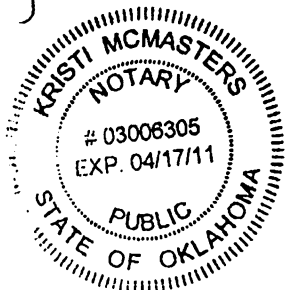
Additionally, none of the Tier 1 Defendants except for the two SEC Registrants have provided complete sets of current 2008 unaudited financial statements and data which should be available from their December 2008 records pursuant to meeting their Stakeholder Requirements. Willow Brook Foods, Inc. and Simmons Foods, Inc. only provided October 2008 balance sheets. George's Inc. provided a compiled income statement and balance sheet for August 2008.

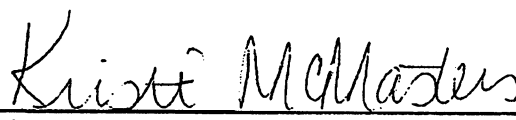
9. The Tier 2 Defendants have provided only limited and selected financial information which is categorized as Partial Presentation Statements. The Tier 2 Defendants have not provided complete sets of financial statement documents whether prepared on a GAAP basis or OCBOA basis. The Tier 2 Defendants have not provided any Footnote Disclosures or data commonly incorporated into Footnote Disclosures. At a minimum, the data incorporated for a Tier 2 Defendant into a Tier 1 Defendants' GAAP Statements and Footnote Disclosures has to exist in order for such audit reports to be issued (on an unqualified basis). All of the aforementioned data including working trial balances and/or subsidiary financial statements is commonly referred to as "consolidating financial statement" data ("Consolidating Data").
10. Finally, GAAP and/or OCBOA Statements report tax assets and/or obligations and tax expense and/or benefits which utilize and rely upon data from filed tax returns ("Tax Data").
11. The aforementioned GAAP Statements, Footnote Disclosures, Consolidating Data and Tax Data are also relevant to evaluating the financial condition, net worth and/or Ability To Pay of the Defendants. A summary of the data either produced or not produced pursuant to the Plaintiff's Requests for Production No. 107 and 11 (as supplemented on October 24, 2008 letter) is included on **Appendix A**.

Further, Affiant sayeth not.


DAVID R. PAYNE

SUBSCRIBED AND SWORN TO BEFORE ME on this 17th day of February, 2009, to certify which witness my hand and official seal.




Notary Public in and for
The State of Oklahoma

Appendix A

Tier	Defendant Classification	Full Presentations Statements		Partial Presentation Statements		Consolidating Data	
		Text Disclosures		GAAP Disclosures		Other Disclosures	
		(10-k)	(Audit Statements)	(Audit Statements)	(Internal Statements)	(Tax Returns)	(WTB; Plans, Projections, Budgets)
1	1a. Tyson Foods, Inc.	9-08	9-08	N/A	N/A	N/D	N/D
2	1b. Tyson Poultry, Inc.	N/A	N/D	N/D	N/D	9/2007-10/2005 ²	N/D
2	1c. Tyson Chicken, Inc.	N/A	N/D	N/D	N/D	9/2007-10/2005 ²	N/D
2	1d. Cobb-Vantress, Inc.	N/A	N/D	N/D	N/D	9/2007-10/2005 ²	N/D
1	2a. Cal-Maine Foods, Inc.	5-08	5-08	N/A	N/A	N/D	N/D
2	2b. Cal-Maine Farms	N/A	N/D	N/D	N/D	N/D	N/D
1	3a. Cargill, Inc.	N/A	N/D	(Financial Summary [5/08 - 2004]) ¹	N/D	N/D	Asset Purchase Agreement (3)
2	3b. Cargill Turkey Production, LLC	N/A	N/D	(Financial Summary [5/08 - 2004]) ¹	N/D	N/D	N/D
1	4a. George's Inc.	N/A	N/D	N/D	BS and IS Only (8/08-9/05) without disclosures	N/D	N/D
2	4b. George's Farms, Inc.	N/A	N/D	N/D	BS and IS Only (8/08-9/05) without disclosures	N/D	N/D
1	5. Peterson Farms, Inc.	N/A	N/D	N/D	BS Only (9/07-9/04); Comparative BS (08/06) without disclosures	N/D	N/D
1	6. Simunons Foods, Inc.	N/A	N/D	Balance Sheet Only (10/08, 12/07-12/03) without disclosures	N/D	N/D	N/D
1	7. Willow Brook Foods, Inc.	N/A	N/D	Balance Sheet and Income Statement (10/08-12/03) without disclosures	N/D	N/D	Asset Purchase Agreement (3)

N/D- No Disclosure

N/A- Not Applicable

WTB - Working Trial Balance

BS - Balance Sheet

IS - Income Statement

(1) Provided a typed summary of selected but incomplete data extracted from the audit statements.

(2) Balance Sheet only; omits disclosure of full tax return.

(3) Asset Purchase Agreement between Cargill and Willowbrook contains redacted portions.